

EB

<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/664,493	CAPPO ET AL.	
	Examiner Huy K. Mai	Art Unit 2873	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTO-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to the amendment filed May 2, 2007.
2.  The allowed claim(s) is/are 1-24,26,27,29-33. Claims 25 and 28 have been cancelled.
3.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All
  - b)  Some\*
  - c)  None
 of the:
  1.  Certified copies of the priority documents have been received.
  2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5.  CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
  - (a)  including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.
  - (b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Huy Mai  
Primary Examiner

**Attachment(s)**

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|--|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)<br>2. <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)<br>3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),<br>Paper No./Mail Date _____<br>4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material | 5. <input type="checkbox"/> Notice of Informal Patent Application<br>6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____<br>7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment<br>8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance<br>9. <input type="checkbox"/> Other _____. |
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**EXAMINER'S AMENDMENT**

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.
2. Authorization for this examiner's amendment was given in a telephone interview with R. Neil Sudol on Jul. 23, 2007.

The application has been amended claim 30 as follows:

**Claim:**

30. (Currently amended) The method defined in claim 27, said second position is between said display and said eye and said first position is not between said display and said eye.

## REASONS FOR ALLOWANCE

3. The following is an examiner's statement of reasons for allowance: It is agreed with the applicant's arguments in pages 13 to 18 that the applicant points out the deficiencies in the Ron, Braeuning and Haines references compare to the claimed invention, as claimed. The prior art does not disclose or fairly suggest, either alone or in combining with any other references to meet the limitations as claimed in claims 13, 17, 26 and 27 either under 35 USC 102 or 103.

The prior art also fails to teach a combination of all the limitations as claimed in the independent claim 1, wherein the claimed invention comprising automatically analyzing said set of raw data to determine a closed curve generally separating points corresponding to unseen test images and points corresponding to seen test images, the analyzing of said raw data to determine said closed curve including: estimating a size and a shape of an area containing only points corresponding to unseen test images; based on the size and shape estimates, selecting a series of spaced points along a boundary of said area; and for each of said spaced points, more precisely determining the boundary of said area by automatically testing additional points located between points corresponding to unseen test images and points corresponding to seen test images, as claimed.

The prior art also fails to teach a combination of all the limitations as claimed in the independent claim 33, wherein the claimed invention comprising automatically analyzing said set of raw data to define an area of the patient's eye containing solely points corresponding to unseen test images, the analyzing of said raw data to determine said area including testing other points in the visual field of the patient, said other points being selected depending on the patient's prior response to test images, as claimed.

Therefore claims 1-24, 26, 27, 29-33 could be allowable over the prior art of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huy K. Mai whose telephone number is (571) 272-2334. The examiner can normally be reached on M-F (8:00 a.m.-4:30 p.m.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky L. Mack can be reached on (571) 272-2333. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1562.

HKM/  
July 22, 2007

  
Huy Mai  
Primary Examiner